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TO: Examiner Amelia Au
Mail Stop PETITION

FAX #: (571) 273-8300

CC:

FROM: William P. Jensen

NUMBER OF PAGES: 4
(INCLUDING COVER PAGE)

DATE: January 12, 2006

C/M#: 33849-5

SUBJECT: Decision on Petition to Make Special in Application No. 10/628,781

Letter to Examiner Au dated January 12, 2006

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January 12, 2006

Examiner Amelia Au
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Via Facsimile (571) 273-8300

Re: Decision on Petition to Make Special in Application No. 10/628,781
Attorney Docket No.: 33849-5

Dear Examiner Au:

Enclosed is a copy of your decision on the Petition to Make Special dated January 4, 2006. While it appears that you go to great lengths to explain the Applicant's alleged failure to identify exactly how the invention "materially" contributes to the discovery or development of energy resources, you fail to mention what evidence would be acceptable to grant a petition to make special under this provision. If, in fact, you have ever granted a petition to make special under this section, I would greatly appreciate your insights as to what evidence would be acceptable so that I may prepare a new petition to file in this matter in accordance with your expectations.

Sincerely,


William P. Jensen

WPJ/jaf
Enclosure

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In re Application of
CHRISTOPHER JOHN CHUTER
Application No. 10/628,781
Filed: July 28, 2003
Attorney Docket No. HESI.105897

OFFICE OF PETITIONS

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This petition decision supplements the petition decision dated December 20, 2005. It has been brought to the PTO's attention that the grounds for the petition to make special was stated on the second page of the petition dated July 28, 2003.

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed July 28, 2003, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to provide any evidence to support how it would materially contribute to (A) discovery or development of energy resources. The present invention is a computer method and apparatus for visualizing (rendering) 2-D or 3-D objects usually in the medical field for producing diagnostic images and in the earth science field for imaging geological formations. While petitioner states that the invention may be used by oil exploration and production companies to distinguish geological formations of seismic data which may otherwise be indistinguishable in their natural environment, there is no clear demonstration that the claimed invention is "materially" directed to energy resources. The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner for the discovery or development energy resources. While the claimed invention for imaging one or more features in an object may be beneficial in the field of geological exploration, there is no evidence of the invention actually discovering or developing energy resources, and therefore does not rise to the level intended by the Rule.

DECISION 3 1992

Application No. 10/628,781

Page 2

Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2676 for action in its regular turn.


Amelia Au
Petitions Examiner
Office of Petitions